IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 19461 of 2005(P)

PETITIONER:

KAMALA DEVI S.,
L4/22, "KSHEMA", HSHB COLONY,
MALAPARAMBA, CALICUT.
(RETIRED PRINCIPAL IN VHSS,
NADAKKADU, KOZHIKODE)

BY ADV. SRI.P.SANJAY
SRI.A.PARVATHI MENON

RESPONDENTS:
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1. STATE OF KERALA, REP. BY SECRETARY,
DEPARTMENT OF EDUCATION, SECRETARIAT,
TRIVANDRUM.

2. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE.

3. DISTRICT TREASURY OFFICER,
PENSION PAYMENT TREASURY,
KOZHIKODE.

BY GOVERNMENT PLEADERSRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the Gratuity Sanction Order dated 1.3.2004 issued to petitioner.

Ext.P1(a): True copy of the Gratuity Payment orders dated 25.10.2004 issued to petitioner.

Ext.P2: Written representation dated 2.3.2005 made by petitioner before 2nd respondent.

Ext.P3: True copy of the NLC certificate from the Deputy Director of Education, Kozhikode dated 22.4.2006.

Ext.P4: True copy of the NLC certificate issued from the Government Vocational Higher Secondary School for girls, Nadakkavu, Kozhikode dated 20.7.2005.

Ext.P5: True copy of the letter dated 15.10.2004 no.Ex.G2/37081/04/CGE

Ext.P6: True copy of the NLC from the Govt. Ganapath H.School Chalapuram dated 11.8.2005.

Ext.P7: True copy of the acknowledgement card dated 9.9.2005.

Ext.P8: True copy of the letter and speed post receipt dated 17.7.2006.

Ext.P9: True copy of the letter from the Principal Govt. Vocational Higher Secondary School for Girls.

Ext.P10: True copy of the letter dated 29.11.2006.

Ext.P11: True copy of the table describing the contradictions in the counter affidavits and reports submitted by the 2nd respondent.

// True copy //

P.A.to Judge

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A.K.BASHEER, J.

W.P.(C)No.19461 of 2005

Dated this the 4th day of June, 2007

JUDGMENT

Petitioner who is stated to be a retired employee has preferred this writ petition with a prayer to issue a writ of mandamus or such other appropriate writ or direction to the respondents to issue non liability certificate to her forthwith, and to ensure that payment of gratuity is made within the time to be stipulated by this Court.

2. It has come out on record from the counter affidavits filed by the respondents that certain liabilities are outstanding against the petitioner. On a specific direction issued by this court, respondent no.2, the Deputy Director of Education, Kozhikode has filed an additional affidavit on May 29, 2007 stating that the liability against the petitioner had been revised and refixed as Rs.37,718/- after verification of the records in Government Vocational Higher Secondary School, Nadakkavu. It is also stated that the above fact had been communicated to the Sub Treasury Officer, Pension Payment Treasury,

Kozhikode on September 26, 2006. This means that the liability has come down from Rs.42,905/- to Rs.37,718/-.

3. Various contentions have been raised by the petitioner disputing not only the quantum but also the liability as such, which has been fastened on her. According to the petitioner, no liabilities are outstanding against her. She contends that the liabilities specified in Ext.R2(a) certificate had already been cleared. For instance, item no.1 which relates to a sum of Rs.1,795/- had been cleared by the auditors. Similarly, objection in item no.2 relating to Rs.3,860/- had also been cleared by the Joint Commissioner of Government Examinations as revealed from Ext.P10. Petitioner has also referred to item nos.3 to 8 enumerated in Ext.R2(a). As regards objection in item no.9 relating to Rs.26,066, the contention of the petitioner is that she had already explained the position in her reply affidavit dated October 26, 2006. It is contended that these liabilities do not subsist at all now.

4. I am afraid the above contentions are in the relam of disputed questions of fact. Necessarily they have to be verified

and scrutinised with reference to the records available in the department. This court need not take up the role of an accountant to work out the liability of the petitioner. It will be open to her to approach the appropriate authority and raise all her contentions with supporting materials.

5. It is true that there are contradictions and variations in the amounts mentioned by the respondents in their counter affidavits. Anyhow, the liability according to the respondents has now been quantified finally at Rs.37,718. As rightly pointed out by the learned counsel for the petitioner, this inconsistency in the stand of the respondent reflects the frivolous nature of the objections raised by the department. There is also force in the contention that the department has delayed the process of scrutiny and verification of the alleged liabilities with no apparent justification. But the contentions raised by the petitioner in the writ petition and particularly in the two reply affidavits are largely in the nature of disputed facts. Having perused the materials on record, I am satisfied that petitioner has to be given an opportunity to redress her grievance before

the authority concerned.

Therefore, the writ petition is disposed of with a direction to respondent no.2 to consider the entire matter afresh after affording sufficient opportunity to the petitioner to be heard. Petitioner may produce the relevant documents before respondent no.2 who shall pass an appropriate order regarding the alleged liability of the petitioner. Petitioner shall also be given an opportunity to peruse the records, if such a request is made. Respondent shall pass the final orders in the matter as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment. In the meanwhile, the admitted amount of retiral benefits payable to the petitioner shall be released to her within one month from the date of receipt of a copy of this judgment.

A.K.BASHEER, JUDGE

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